

109TH CONGRESS
1ST SESSION

S. 2124

To address the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a major disaster, to increase the accessibility of replacement housing built with Federal funds following Hurricane Katrina and other major disasters, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 2005

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To address the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a major disaster, to increase the accessibility of replacement housing built with Federal funds following Hurricane Katrina and other major disasters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Prepared-
5 ness and Response for Individuals With Disabilities Act
6 of 2005”.

1 **TITLE I—EMERGENCY PLAN-**
 2 **NING AND RESPONSE FOR IN-**
 3 **DIVIDUALS WITH DISABIL-**
 4 **ITIES**

5 **SEC. 101. DEFINITION.**

6 Section 506 of the Homeland Security Act of 2002
 7 (6 U.S.C. 316) is amended—

8 (1) by redesignating paragraphs (1) and (2) as
 9 subparagraphs (A) and (B), respectively, and re-
 10 aligning the margin as appropriate; and

11 (2) by striking “, the term” and inserting the
 12 following: “—

13 “(1) the term ‘individual with a disability’ has
 14 the meaning given the term in section 3 of the
 15 Americans with Disabilities Act of 1990 (42 U.S.C.
 16 12102); and

17 “(2) the term”.

18 **SEC. 102. DISABILITY COORDINATOR.**

19 (a) IN GENERAL.—Title V of the Homeland Security
 20 Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding
 21 at the end the following:

22 **“SEC. 512. DISABILITY COORDINATOR.**

23 “(a) IN GENERAL.—After consultation with organi-
 24 zations representing individuals with disabilities and the
 25 Interagency Coordinating Council on Emergency Pre-

1 paredness and Individuals with Disabilities established
2 under Executive Order 13347 (6 U.S.C. 312 note), the
3 Secretary shall appoint a Disability Coordinator. The Dis-
4 ability Coordinator shall report directly to the Secretary,
5 in order to ensure that the needs of individuals with dis-
6 abilities are being properly addressed in emergency pre-
7 paredness and disaster relief.

8 “(b) RESPONSIBILITIES.—The Disability Coordinator
9 shall be responsible for—

10 “(1) providing guidance and coordination on
11 matters related to individuals with disabilities in
12 emergency planning requirements and relief efforts
13 in the event of a major disaster;

14 “(2) interacting directly with Department staff,
15 the Interagency Coordinating Council on Emergency
16 Preparedness and Individuals with Disabilities estab-
17 lished under Executive Order No. 13347 (6 U.S.C.
18 312 note), other agencies of the Federal Govern-
19 ment, and State and local government authorities re-
20 garding the needs of individuals with disabilities in
21 emergency planning requirements and relief efforts
22 in the event of a major disaster;

23 “(3) consulting with organizations that rep-
24 resent the interests and rights of individuals with
25 disabilities about the needs of individuals with dis-

1 abilities in emergency planning requirements and re-
2 lief efforts in the event of a major disaster;

3 “(4) coordinating and disseminating best prac-
4 tices and model evacuation plans for individuals with
5 disabilities;

6 “(5) developing a curriculum for first responder
7 training on the needs of individuals with disabilities,
8 including the needs of individuals with physical dis-
9 abilities and the needs of individuals with psychiatric
10 disabilities;

11 “(6) developing training materials for State and
12 local governmental officials, first responders, and
13 others about the importance of allowing individuals
14 with disabilities to retain their durable medical
15 equipment, wheelchairs, service animals, and other
16 assistive devices, to the maximum extent possible, in
17 the aftermath of a major disaster;

18 “(7) working with the Director of the Centers
19 for Medicare and Medicaid Services, durable medical
20 equipment regional carriers, manufacturers and sup-
21 pliers of durable medical equipment, and medical
22 professionals to draft an emergency response plan
23 for the temporary loan or replacement of durable
24 medical equipment in the event of a major disaster;

1 “(8) ensuring the accessibility of telephone hot-
2 lines and websites regarding emergency prepared-
3 ness, evacuations, and disaster relief;

4 “(9) working with the Chairman of the Federal
5 Communications Commission to ensure that video
6 programming distributors, including broadcasters,
7 cable operators, and satellite television services,
8 make emergency information accessible to individ-
9 uals with hearing and vision disabilities;

10 “(10) coordinating the availability of accessible
11 transportation options for individuals with disabil-
12 ities in the event of an evacuation;

13 “(11) providing guidance and implementing
14 policies to ensure that the rights and wishes of indi-
15 viduals with disabilities regarding post-evacuation
16 residency and relocation are respected;

17 “(12) ensuring that meeting the needs of indi-
18 viduals with disabilities are included in any Federal
19 emergency response plans; and

20 “(13) any other duties relevant to emergency
21 preparedness an response for individuals with dis-
22 abilities.”.

23 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
24 The Homeland Security Act of 2002 (6 U.S.C. 101 et
25 seq.) is amended—

1 (1) by redesignating the second section des-
2 ignated as section 510 as section 511; and

3 (2) in the table of contents, by inserting after
4 the item relating to section 509 the following:

“Sec. 510. Procurement of security countermeasures for Strategic Na-
tional Stockpile.

“Sec. 511. Urban and other high risk area communications capabilities.

“Sec. 512. Disability Coordinator.”.

5 **SEC. 103. TEMPORARY HOUSING.**

6 Section 408(c)(1)(B) of the Robert T. Stafford Dis-
7 aster Relief and Emergency Assistance Act (42 U.S.C.
8 5174(c)(1)(B)) is amended by—

9 (1) redesignating clauses (ii) and (iii) as clauses
10 (iii) and (iv) respectively; and

11 (2) inserting after clause (i) the following:

12 “(ii) ACCESSIBLE TEMPORARY HOUS-
13 ING.—In the event temporary housing
14 units, including trailers, are provided
15 under clause (i), not less than 30 percent
16 of such temporary housing shall be phys-
17 ically accessible to and usable by individ-
18 uals with disabilities, and the accessible
19 units shall be integrated with other avail-
20 able housing units.”.

1 **SEC. 104. RIGHT OF INDIVIDUALS WITH DISABILITIES TO**
2 **LIVE INDEPENDENTLY.**

3 Section 308 of the Robert T. Stafford Disaster Relief
4 and Emergency Assistance Act (42 U.S.C. 5151) is
5 amended by adding at the end the following:

6 “(c) INDIVIDUALS WITH DISABILITIES.—Personnel
7 carrying out Federal assistance functions under sub-
8 section (a) and governmental bodies and other organiza-
9 tions providing assistance under subsection (b) shall exert
10 maximum effort to ensure that individuals with disabilities
11 (as defined in section 3 of the Americans with Disabilities
12 Act of 1990 (42 U.S.C. 12102)) who were living independ-
13 ently before evacuating their homes are offered housing
14 alternatives with comparable independence.”.

15 **SEC. 105. GAO STUDY ON ACCESSIBILITY OF EMERGENCY**
16 **SHELTERS.**

17 (a) IN GENERAL.—The Comptroller General of the
18 United States shall conduct a national study regarding
19 whether, and, if so, to what extent, emergency shelters for
20 use in response to a major disaster, as that term is defined
21 in section 102(2) of the Robert T. Stafford Disaster Relief
22 and Emergency Assistance Act (42 U.S.C. 5122(2)) are
23 accessible to, and usable by, individuals with disabilities.

24 (b) REPORT.—Not later than 12 months after the
25 date of enactment of this Act, the Comptroller General
26 of the United States shall submit a report summarizing

1 the results of this study to the Committee on Homeland
 2 Security and Governmental Affairs and the Committee on
 3 Health, Education, Labor, and Pensions of the Senate and
 4 the Committee on Homeland Security and the Committee
 5 on Education and the Workforce of the House of Rep-
 6 resentatives.

7 **TITLE II—INCREASING ACCESSI-**
 8 **BILITY OF REPLACEMENT**
 9 **HOUSING**

10 **SEC. 201. AMOUNT OF ASSISTANCE AVAILABLE.**

11 (a) IN GENERAL.—Section 408(c)(3) of the Robert
 12 T. Stafford Disaster Relief and Emergency Assistance Act
 13 (42 U.S.C. 5174(c)(3)) is amended by adding at the end
 14 the following:

15 “(D) ADDITIONAL ASSISTANCE FOR EN-
 16 HANCED ACCESSIBILITY.—The maximum
 17 amount of assistance provided to a household
 18 under this paragraph may be increased by
 19 \$5,000 if the owner of the residence involved
 20 agrees to comply with the increased accessibility
 21 standards described in paragraph (5).”.

22 (b) MAXIMUM AMOUNTS.—Section 408(h)(1) of the
 23 Robert T. Stafford Disaster Relief and Emergency Assist-
 24 ance Act (42 U.S.C. 5174(h)(1)) is amended by striking
 25 “\$25,000” and inserting “\$30,000”.

1 (c) SMALL BUSINESSES.—Section 7(b) of the Small
 2 Business Act (15 U.S.C. 636(b)) is amended by inserting
 3 immediately after paragraph (3) the following:

4 “(4) ACCESSIBILITY OF REPLACEMENT HOUS-
 5 ING.—Notwithstanding any other provision of law,
 6 the Administrator may increase the maximum
 7 amount of a loan under this subsection by not more
 8 than 10 percent if—

9 “(A) the loan is for replacement of a pri-
 10 vate residence; and

11 “(B) the owner agrees to comply with the
 12 increased accessibility standards described in
 13 paragraph (5) of section 408(c) of the Robert
 14 T. Stafford Disaster Relief and Emergency As-
 15 sistance Act (42 U.S.C. 5174(c)).”.

16 (d) CLERICAL AMENDMENTS.—Section 7(b) of the
 17 Small Business Act (15 U.S.C. 636(b)) is amended in the
 18 undesignated matter at the end—

19 (1) in the sentence beginning “In the Adminis-
 20 tration of the disaster loan program”, by striking “,
 21 (2), and (4)” and inserting “and (2)”; and

22 (2) in the sentence beginning “A State grant
 23 made on or prior to July 1, 1979”, by striking “,
 24 (2), or (4)” and inserting “or (2)”.

1 **SEC. 202. ACCESSIBILITY STANDARDS.**

2 Section 408(c) of the Robert T. Stafford Disaster Re-
 3 lief and Emergency Assistance Act (42 U.S.C. 5174(c))
 4 is amended by adding at the end the following:

5 “(5) INCREASED ACCESSIBILITY STANDARDS
 6 FOR REPLACEMENT HOUSING.—

7 “(A) IN GENERAL.—The increased accessi-
 8 bility standards described in this paragraph in-
 9 clude features that allow a residence to be ac-
 10 cessible to, and usable by, an individual with a
 11 disability (including a person who uses a wheel-
 12 chair).

13 “(B) MINIMUM REQUIREMENTS.—The ac-
 14 cessible features described in this paragraph in-
 15 clude, at a minimum—

16 “(i) an accessible pathway from out-
 17 side of the residence to an accessible en-
 18 trance;

19 “(ii) an accessible entrance;

20 “(iii) an accessible pathway that con-
 21 nects the accessible entrance to the acces-
 22 sible features within the residence;

23 “(iv) accessible interior doors;

24 “(v) accessible environmental controls;

25 “(vi) an accessible sleeping area;

26 “(vii) an accessible bathing area;

1 “(viii) an accessible bathroom that in-
2 cludes an accessible toileting area;

3 “(ix) an accessible kitchen; and

4 “(x) accessible living space.

5 “(C) LOCATION.—The interior accessible
6 features described in subparagraph (B) shall ei-
7 ther be located on 1 level of the residence or
8 connected to each other in a manner that allows
9 their independent use by an individual with a
10 disability (including a person who uses a wheel-
11 chair).

12 “(D) STANDARDS.—

13 “(i) IN GENERAL.—Not later than 12
14 months after the date of enactment of this
15 paragraph, the Architectural and Trans-
16 portation Barriers Compliance Board shall
17 issue and publish standards setting forth
18 the minimum technical criteria necessary
19 to implement the requirements set forth in
20 this paragraph. The Architectural and
21 Transportation Barriers Compliance Board
22 shall periodically review and, as appro-
23 priate, amend the standards.

24 “(ii) INTERIM STANDARDS.—If a
25 State or locality has an ordinance, statute,

1 or regulation that provides for increased
 2 housing accessibility standards comparable
 3 to those in subparagraph (B), residents of
 4 that State or locality who agree to meet
 5 the standards shall be eligible for the in-
 6 creased funds available under paragraph
 7 (3)(D) of this subsection and paragraph
 8 (4) of section 7(b) of the Small Business
 9 Act (15 U.S.C. 636(b)), until such time as
 10 the Architectural and Transportation Bar-
 11 riers Compliance Board issues and pub-
 12 lishes its standards under clause (i).

13 “(6) ENFORCEMENT OF ACCESSIBILITY STAND-
 14 ARDS.—

15 “(A) REQUIREMENT FOR ADDITIONAL AS-
 16 SISTANCE FOR ENHANCED ACCESSIBILITY.—

17 Each applicant for additional assistance for en-
 18 hanced accessibility under paragraph (3)(D) of
 19 this subsection or section 7(b)(4) of the Small
 20 Business Act shall submit an assurance to the
 21 Federal Emergency Management Agency that
 22 the residence described in paragraph (3)(D) of
 23 this subsection or section 7(b)(4) of the Small
 24 Business Act, as the case may be (referred to
 25 in this paragraph as ‘replacement housing’),

1 shall be constructed in compliance with the in-
2 creased accessibility standards described in
3 paragraph (5).

4 “(B) APPROVAL OF ARCHITECTURAL AND
5 CONSTRUCTION PLANS.—

6 “(i) SUBMISSION.—Each applicant for
7 additional assistance for enhanced accessi-
8 bility under paragraph (3)(D) of this sub-
9 section or section 7(b)(4) of the Small
10 Business Act shall submit architectural
11 and construction plans for the proposed re-
12 placement housing to the appropriate State
13 or local agency.

14 “(ii) FEDERAL HOUSING ASSIST-
15 ANCE.—The Secretary of Homeland Secu-
16 rity and the Director of the Federal Emer-
17 gency Management Agency shall not pro-
18 vide any financial assistance under this Act
19 to a State or unit of general local govern-
20 ment (or any agency thereof) unless the
21 appropriate State or local agency is, in the
22 determination of such Secretary or Direc-
23 tor, taking the enforcement actions de-
24 scribed in clause (iii).

1 “(iii) ENFORCEMENT ACTIONS.—The
2 enforcement actions described in this
3 clause are—

4 “(I) reviewing any plans for pro-
5 posed replacement housing submitted
6 under clause (i) and approving or dis-
7 approving such plans based upon com-
8 pliance of the replacement housing
9 with the requirements of paragraph
10 (5); and

11 “(II) consistent with applicable
12 State or local laws and procedures,
13 withholding final approval for con-
14 struction or occupancy of the replace-
15 ment housing unless and until such
16 compliance is achieved.

17 “(iv) ENFORCEMENT BY ATTORNEY
18 GENERAL.—Whenever the Attorney Gen-
19 eral has reasonable cause to believe that
20 any person or group of persons has vio-
21 lated this paragraph or paragraph (5), the
22 Attorney General may commence a civil ac-
23 tion in any appropriate United States dis-
24 trict court.

1 “(v) RELIEF.—In any civil action
 2 brought under clause (iv), if the court
 3 finds that a violation of this paragraph or
 4 paragraph (5) has occurred or is about to
 5 occur, the court may grant any equitable
 6 relief that the court considers to be appro-
 7 priate, including temporary, preliminary,
 8 or permanent relief.

9 “(7) DEFINITIONS.—In this subsection:

10 “(A) APPROPRIATE STATE OR LOCAL
 11 AGENCY.—The term ‘appropriate State or local
 12 agency’ means the State or local department or
 13 agency that is responsible, under applicable
 14 State or local law, for the review and approval
 15 of construction plans for compliance with gen-
 16 erally applicable building codes or requirements.

17 “(B) INDIVIDUAL WITH A DISABILITY.—
 18 The term ‘individual with a disability’ has the
 19 meaning given the term in section 3 of the
 20 Americans with Disabilities Act of 1990 (42
 21 U.S.C. 12102).”.

○